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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW JERSEY

3 Case No. 2:21-cv-20715

4
5 COMMUNITY FUTURES
6 TRADING COMMISSION,

)

) STATEMENT ON

7 Plaintiff,

THE RECORD

)

8 v.

)

)

9 WORLDWIDEMARKETS, LTD., TAB
10 NETWORKS, INC.; THOMAS PLAUT;
11 and ARTHUR DEMBRO,

)

Defendants.

)

12
13 TRANSCRIPT of the stenographic notes of
14 the proceedings in the above-entitled matter, as
15 taken by and before ELLEN J. GODINO, CCR, RPR, CRCR,
16 held from multiple locations via Zoom Teleconference,
17 Thursday, November 16, 2023, commencing at 10:16 a.m.

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24 Job No. CS6306413
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1 A P P E A R A N C E S:
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3 COMMUNITY FUTURES TRADING COMMISSION
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DIVISION OF ENFORCEMENT

DIVISION OF ENFORCEMENT

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I N D E X

STATEMENT ON THE RECORD

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E X H I B I T S

10	No.	Description	Page
11			
12	CFTC-185	Email dated October 17,	4
13			
14		2023, with Attached	
15		Subpoena	
16	CFTC-189	Notice of Deposition	5
17	CFTC-197	Email dated August 31, 2023	5
18	CFTC-198	Email dated September 28,	7
19			
20		2023	
21	CFTC-199	Email chain ending in date	8
22			
23	D-Plaut-1	September 29, 2023	
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1 MR. KRAMER: On the record at 10:16 a.m.
2 Eastern.

3 So we previously were on the record at
4 9:30 Eastern, the time that was subpoenaed for the
5 deposition of Thomas Plaut. Mr. Plaut was issued a
6 subpoena via email on Tuesday, October 17, 2023, at
7 7:45 p.m., an email sent by my colleague Joseph Platt
8 to the email address that the Court ruled we could
9 serve him at. That email is an exhibit. It's
10 Exhibit 185 which I would like to enter into the
11 record.

12 (Exhibit CFTC-185, Email dated October
13 17, 2023, with Attached Subpoena, was received and
14 marked for identification.)

15 MR. KRAMER: The subpoena attached to
16 that email required that Mr. Plaut appear via video
17 today at 9:30 Eastern for a deposition that was to
18 continue until 5:30 p.m. Eastern. CFTC counsel, as
19 well as defense counsel, appear via video at
20 9:30 a.m. eastern this morning. Mr. Plaut did not
21 appear. We agreed to go off the record and appear
22 again at 10:15 Eastern. We have given Mr. Plaut
23 45 minutes to appear; Mr. Plaut has not appeared.

1 into the record.

2 (Exhibit CFTC-189, Notice of Deposition,
3 was received and marked for identification.)

4 MR. GEKAS: Can you move the exhibits
5 over to marked exhibits in Exhibit Share?

6 MR. KRAMER: I believe they should be
7 there. Do you want to check again? Let me refresh.

8 (Discussion off the record.)

9 MR. KRAMER: So Exhibit 189 is the
10 Notice of Deposition requiring Mr. Plaut to appear
11 today for a deposition at 9:30 a.m. Eastern is
12 entered into evidence.

13 (Exhibit CFTC-197, Email dated August
14 31, 2023, was received and marked for identification.

15 MR. KRAMER: Next, I would like to enter
16 CFTC Exhibit 197. This is an email exchange between
17 Mr. Gekas and Mr. Plaut. In this email exchange on
18 Thursday, August 24, 2023, Mr. Gekas sent an email to
19 Mr. Plaut, and counsel, which said "To establish what
20 we believe to be Mr. Plaut's seriously debilitating
21 medical conditions, we intend to issue subpoenas to
22 his last-known treating medical providers as
23 specified in the sealed filing docket number 72 by
24 his former lawyers. May we have your consent to the
25 attached HIPAA qualified protective order? Thanks."

1 In response to that email, which you
2 sent to Mr. Plaut and counsel, Mr. Plaut responded
3 only to Mr. Gekas in an email on August 29, 2023, at
4 3:56, saying, "Mr. Gekas, I'm sorry for not getting
5 back to you sooner. I don't have a problem with you
6 reviewing my medical records. I would like to talk
7 to my lawyer first. Do you mind if I get back to you
8 tomorrow? Sincerely, Thomas S. Plaut," and that
9 email was not cc'd to CFTC counsel. It was only sent
10 to Mr. Gekas.

11 When we were off the record, I asked
12 Mr. Gekas whether he or his client, Arthur Dembro,
13 have communicated with Thomas Plaut since the date of
14 that email, August 29, 2023. And Mr. Gekas has
15 informed me that neither he nor his client have
16 communicated with Tom Plaut since the date of that
17 email.

18 Is that correct, Mr. Gekas?

19 MR. GEKAS: That's correct. I also ask
20 you the same question, but I'll deal with it when
21 it's my turn.

22 Go ahead.

23 MR. KRAMER: And even though that email
24 said, "Do you mind if I get back to you tomorrow,"
25 Mr. Gekas has informed us that neither he nor his

1 client has ever heard anything from Tom Plaut.

2 Is that correct?

3 MR. GEKAS: That's correct.

4 MR. KRAMER: Next I would like to enter
5 Exhibit 198 on the record.

6 MR. GEKAS: Under the Rule of
7 Completeness, let me ask you to read on Exhibit 197
8 the top email forwarding the communications to you
9 guys.

10 MR. KRAMER: That's in the exhibit,
11 Chris, but after the -- that's in the exhibit that's
12 there.

13 MR. GEKAS: Okay.

14 (Exhibit CFTC-198, Email dated September
15 28, 2023, was received and marked for
16 identification.)

17 MR. KRAMER: Exhibit 198 is the next
18 exhibit we'd like to enter.

19 So today's deposition was previously
20 noticed for October 3rd, 10:15, and it was noticed on
21 September 18, 2023, via email, which is shown in
22 Exhibit 198. After that deposition was noticed for
23 October 3rd on September 18th, division staff heard
24 nothing from Mr. Plaut, and on September 28, 2023, at
25 3:00 p.m., I sent an email to Mr. Plaut and counsel

1 which read, "In light of the judge's directions
2 regarding service, we are striking the dates for next
3 week's depositions, October 2, 3rd and 4th; although
4 we may be unavailable for the time in the event of a
5 government shutdown, we will re-notice the dates
6 after the service matter is resolved. Regards, John
7 Kramer."

8 Although CFTC attorneys heard nothing
9 from Mr. Plaut between September 18th and the date of
10 that email, September 28th, Mr. Plaut did send an
11 email the following day on September 29th, and I'd
12 like to at this time enter Exhibit 199 into the
13 record.

14 (Exhibit CFTC-199, Email chain ending in
15 date September 29, 2023, was received and marked for
16 identification.)

17 MR. KRAMER: And Exhibit 199 is an email
18 that was sent on Friday, September 29, 2023, the day
19 after we struck the date of Mr. Plaut's deposition.

20 In that email Mr. Plaut states, "Dear
21 Mr. Platt, I have received the documents and I have
22 computer and internet connection for Monday morning
23 of next week at 10:15 a.m. Thank you. Sincerely,
24 Thomas Plaut."

25 This was sent from the Thomas Plaut

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1 email account which the Court has ruled he can accept
2 service at.

3 This email from Mr. Plaut on Friday,
4 September 29, 2023, was not just sent to CFTC
5 counsel; it was sent to Guillermo Artiles, Chris
6 Gekas, Joseph Konizeski and Joseph Patrick, all
7 counsel on the case. We're cc'd on that email,
8 unlike the email in Exhibit 197 where Mr. Plaut
9 responded to Mr. Gekas alone.

10 So based on these exhibits, we believe
11 that Mr. Plaut is checking his email account. He has
12 sent two coherent emails addressing the earlier
13 notice date of the deposition, as well as a very
14 specific legal question posed by Mr. Gekas.

15 We believe that Mr. Plaut knows about
16 this testimony today and has purposefully chosen not
17 to appear.

18 MR. GEKAS: Why is it that there's
19 redactions on Exhibit 198?

20 MR. KRAMER: These were filed as part of
21 an attachment to a filing, and I believe that they're
22 emails. His email is redacted so as not to show his
23 email in a court filing.

24 MR. GEKAS: Fair enough.

25 Is that it, John?

1 MR. KRAMER: Let's go off the record
2 just for a moment while I consult with my colleagues
3 just for a moment, please.

4 (Off the record.)

5 MR. KRAMER: Back on the record at 10:25
6 Eastern.

7 MR. GEKAS: I think your exchange of
8 emails is incorrect. I'm looking at my -- I'm
9 looking at my email file, and there's one on
10 October 1st from Mr. Plaut to Jody Platt. I guess
11 what I should do, I'm not sure what you're doing.

12 Please be patient with me. Let's go off
13 the record while I do that.

14 (Off the record.)

15 (Exhibit Defendants Plaut-1, Email dated
16 October 1, 2023, was received and marked for
17 identification.)

18 MR. GEKAS: I hope you'll see in the
19 marked exhibits the exhibit of a file of an email
20 exchange between Mr. Platt, P-L-A-T-T, Joseph Platt
21 of your office, and Thomas Plaut on the 29th of
22 September and October 1st.

23 So there was communication between
24 Mr. Plaut and the CFTC, copied to me and I think to
25 my local counsel. And it says what it says. And

1 there's an explanation. I'm not sure what the
2 relevance of it is to what we're going through now.
3 But I wanted the record to be complete.

4 And one of these exhibits, I was a
5 little bit surprised -- let me go back and see which
6 one it was; it's 197. I invoke the Rule of
7 Completeness to 197, because Mr. Kramer didn't read
8 the top email which shows that on the 31st of August,
9 I forwarded to the CFTC my exchange with Mr. Plaut.
10 BTW, by the way, and FYI is for your information.

11 So I think it is correct that Mr. Plaut
12 has been communicating or did communicate with the
13 CFTC a couple of times with copies to me and my local
14 counsel.

15 So I hope the record -- the written
16 record is correct. Let me ask you what you asked me.

17 Have you had any other communications
18 with Mr. Plaut, when I say "you," I mean the CFTC or
19 anyone acting on its behalf, at anyone at the CFTC or
20 anyone acting on the CFTC's behalf?

21 MR. KRAMER: I have received no other
22 communications from Mr. Plaut.

23 MR. GEKAS: And your co-counsel?

24 MR. KRAMER: I can speak for myself, and
25 I'm not aware of anyone else receiving

1 communications, and when you invoke the Rule of
2 Completeness on Exhibit 197, that exhibit included
3 the email that you referenced now. So that was a
4 complete exhibit. You're not saying that exhibit was
5 incomplete, are you?

6 MR. GEKAS: No, I'm saying you didn't
7 read that part for some reason.

8 MR. KRAMER: Well, I mean, I am allowed
9 to read the parts of the exhibits that I want to
10 read, Chris, and I would note that you waited two
11 days -- you waited two days after you received this
12 email from Tom Plaut on August 29th to forward it to
13 us on August 31st.

14 MR. GEKAS: I have the right to read the
15 rest of it into the record under the Rule of
16 Completeness.

17 MR. KRAMER: Well, the whole exhibit is
18 in the record. So I want to make sure that we both
19 agree that that exhibit is complete in and of itself.

20 Did you mark that exhibit? The exhibit
21 you just entered, what exhibit number is that?

22 MR. GEKAS: It's not numbered; it's just
23 identified by the file name.

24 MR. KRAMER: Chris, if you're entering
25 into evidence, I think it needs a number. I don't

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1 know if there's a rule on that. Exhibit what?

2 MR. GEKAS: Exhibit 20231001, Plaut to
3 Platt. That's the name of the exhibit.

4 MR. KRAMER: Did you want to assign it a
5 number?

6 Ellen, are you able to include an
7 exhibit without a number? You're at risk of not
8 entering this into evidence, Chris.

9 I'm preventing you from committing
10 malpractice by telling you the number.

11 MR. GEKAS: I appreciate it. You want
12 me to mark it?

13 MR. KRAMER: If you want it part of the
14 record, you know. I'm fine with it not being part of
15 the record. But if you want it to be part of the
16 record, you've got to mark it.

17 (Off-the-record discussion.)

18 MR. KRAMER: We're not off the record.

19 MR. GEKAS: Okay, okay, just cool it.

20 Oh, boy.

21 Can I mark it from Exhibit Share. Let
22 me see if I can do that.

23 I guess I'll mark it as my next exhibit
24 number.

25 (Exhibit Defendants' Plaut No. 1, Email

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1 dated October 1, 2023, was received and marked for
2 identification.)

3 (Court Reporter clarification.)

4 MR. KRAMER: Mr. Gekas has asked that
5 our -- on the record asked that our exhibits --
6 repeatedly -- during on the record -- asked that our
7 exhibits be in Exhibit Share, so I assume he knows
8 how to do that.

9 MR. GEKAS: I'm almost there, guys.
10 Please be patient with me. Just got to rename it.

11 Okay. In the marked folders is a marked
12 exhibit with a yellow sticker called Defendants'
13 Plaut 1. Thank you for your guidance, Mr. Kramer, I
14 appreciate your instruction on how to handle it. I
15 hope that satisfies both your concerns and the court
16 reporter's.

17 MR. KRAMER: As long as the exhibit is
18 properly marked, the CFTC does want a complete
19 record, Mr. Gekas, and is not concealing anything or
20 hiding anything.

21 With that said, we're ready to go off
22 the record at 10:40 a.m. Eastern time.

23 MR. GEKAS: Fair enough.

24 MR. KRAMER: Thank you, Ellen. We
25 apologize that this was not a full day of testimony

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1 as we had hoped.

2 (The proceedings concluded at 10:41 a.m.

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1 C E R T I F I C A T E .

2

3 I, ELLEN J. GODINO, LICENSE NO. X101618, a

4 Certified Shorthand Reporter of the State of New Jersey,

5 do hereby certify that that the foregoing is a true and

6 accurate transcript of the testimony as taken

7 stenographically by and before me at the time, place and

8 on the date hereinbefore set forth, to the best of my

9 ability.

10 I DO FURTHER CERTIFY that I am neither a

11 relative nor employee nor attorney nor counsel of any of

12 the parties to this action, and that I am neither a

13 relative nor employee of such attorney or counsel, and

14 that I am not financially interested in the action.

15 

16 ELLEN J. GODINO

17 CERTIFIED COURT REPORTER

18 State of New Jersey

19 DATED: 11/16/23

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[& - believe]

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[best - email]

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[email - internet]

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